

PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for Certification for)	Docket No.
the CPV Sentinel Energy Project)	07-AFC-3
by the Pacific CPV Sentinel, LLC)	
<hr/>)	

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 21, 2008

9:00 a.m.

Reported by:
Ramona Cota
Contract No. 170-07-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

James D. Boyd, Vice Chair and Presiding Member

Kenneth Celli, Hearing Officer

Kelly Birkinshaw, Advisor to Commissioner Boyd

Tim Tutt, Advisor to Commissioner Pfannenstiel

STAFF AND CONSULTANTS PRESENT

Rose Mary Avalos

Caryn Holmes, Staff Counsel

John Kessler

Maggie Read

PUBLIC ADVISER

Nick Bartsch

APPLICANT

Michael J. Carroll, Attorney
Latham & Watkins

Mark O. Turner
Competitive Power Ventures, Inc.

ALSO PRESENT

Monisha Gangopadhyay, California Public Utilities
Commission (via telephone)

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P R O C E E D I N G S

9:09 a.m.

PRESIDING MEMBER BOYD: Good morning, everybody. Pardon the delay. The advantage of being in your own building is being in your own building. The disadvantage is, it is your own building and there's other things that suddenly step in the way. Pardon me for being a few minutes late.

Good morning, this is a Prehearing Conference for the CPV Sentinel Project. I am Jim Boyd, Presiding Commissioner for this siting case. The Associate Commissioner is Commissioner Pfannenstiel who is on the East Coast at this moment and is therefore not able to be with us. But she is ably represented by her advisor, Tim Tutt on the far right. And to my left is my advisor, Kelly Birkinshaw.

Having introduced the Committee I would like to go through and have all the parties introduce themselves. Let me first make sure we have a representative of the Public Adviser's Office. And I see Mr. Nick Bartsch in the back of the room. Nick, thank you.

And now applicant, please, if you would

1 introduce your representatives.

2 MR. CARROLL: Good morning. Mike
3 Carroll with Latham & Watkins on behalf of CPV
4 Sentinel, the applicant in this project.

5 MR. TURNER: Mark Turner, Project
6 Manager for CPV Sentinel.

7 PRESIDING MEMBER BOYD: Thank you.
8 Staff?

9 MS. HOLMES: Caryn Holmes, Staff
10 Counsel. And on my right is John Kessler, the CEC
11 Project Manager.

12 PRESIDING MEMBER BOYD: Thank you. Now
13 I am not sure what other parties are here so I am
14 going to go through a list and if folks are here
15 if they would identify themselves. Is there a
16 representative of the County of Riverside here
17 today?

18 How about the cities of Desert Hot
19 Springs or Palm Springs?

20 South Coast Air Quality Management
21 District?

22 The Mission Springs Water District?

23 The Desert Water Agency?

24 Any state governments represented here
25 today, state government agencies?

1 Any local government agencies
2 represented here today?

3 Okay. And the next question was who is
4 on the phone and I was provided a list of
5 representatives. I don't even know if I am going
6 to try to -- There is a representative of the
7 CPUC, California Public Utilities Commission on
8 the phone. Would you like to identify yourself,
9 or take the risk of me mispronouncing your name.

10 Maybe I should have tried.

11 HEARING OFFICER CELLI: Are we not on
12 the air?

13 MS. READ: She disconnected.

14 PRESIDING MEMBER BOYD: Okay. And there
15 are four other people who are just listed here as
16 listening. So they are not going to be actually
17 participating and I am not sure we need to
18 identify who they are.

19 HEARING OFFICER CELLI: Okay.

20 PRESIDING MEMBER BOYD: We have that for
21 our record if need be.

22 Okay, with that I am going to turn the
23 hearing over to Hearing Officer, as I say, turn it
24 over to Hearing Officer Celli.

25 HEARING OFFICER CELLI: Good morning.

1 The Committee scheduled this Prehearing Conference
2 in a Notice filed September 24, 2008. As
3 explained in the Notice the basic purposes of the
4 Prehearing Conference are to assess the parties'
5 readiness for hearings, to clarify areas of
6 agreement or dispute, to identify witnesses and
7 exhibits, to determine upon which areas parties
8 desire to cross examine witnesses, and to discuss
9 associated procedural matters.

10 To achieve these purposes we require in
11 the Notice that any party desiring to examine
12 witnesses at future evidentiary hearings file a
13 Prehearing Conference Statement by October 16,
14 2008, which is this morning. Timely Prehearing
15 Conference Statements -- That was last week,
16 rather. Today is the 21st.

17 (Laughter)

18 HEARING OFFICER CELLI: A timely
19 Prehearing Conference Statement was filed by the
20 applicant and by staff. There is no Intervenor in
21 this case. We have not received any other
22 statements.

23 As far as the procedures today. What we
24 are going to do is we will discuss matters
25 contained in the Prehearing Conference Statements.

1 (Whereupon the Sound Technician
2 stepped to the dais and turned on
3 the Hearing Officer's microphone.)

4 HEARING OFFICER CELLI: Have you been
5 able to hear me all this time, folks? Okay. I
6 have never been accused of being quiet.

7 We are going to first discuss the
8 Prehearing Conference Statements and their
9 contents. After that we are going to discuss the
10 various options for proceeding with the case with
11 regard to air quality. And then we are going to
12 provide an opportunity for public comment. So
13 that is the agenda for the day.

14 As to the Prehearing Conference
15 Statements. The applicant states that all topic
16 areas are complete and ready to proceed to
17 evidentiary hearings, including Air Quality.
18 Correct?

19 MR. CARROLL: That is correct.

20 HEARING OFFICER CELLI: And staff says
21 that all topics are complete and ready to proceed
22 to evidentiary hearings with the exception of Air
23 Quality. Do I have that right?

24 MS. HOLMES: Yes.

25 HEARING OFFICER CELLI: So both parties

1 agree that excluding Air Quality there is no
2 dispute on any topic areas except Soil and Water
3 Resources and Biological Resources. Do I have
4 that right, applicant?

5 MR. CARROLL: That's correct.

6 HEARING OFFICER CELLI: And staff?

7 MS. HOLMES: Yes.

8 HEARING OFFICER CELLI: Okay. So first,
9 I received both parties' Exhibits List. We put
10 our own Exhibit List together and sent it out to
11 the parties by way of e-mail. And I just wanted
12 to know if there are any changes to the Exhibits
13 List?

14 MR. CARROLL: Applicant has a few
15 changes to the Exhibit List.

16 HEARING OFFICER CELLI: Please.

17 MR. CARROLL: There are two new
18 exhibits, which we have identified as Exhibits 95
19 and 96. Those had been intentionally omitted so
20 we used those placeholders for these two new
21 exhibits. Exhibit 95 would be the memorandum from
22 URS regarding analysis of the pre-charge time.
23 This was a document that was filed and docketed
24 last week.

25 HEARING OFFICER CELLI: Is there a date

1 on that document?

2 MR. CARROLL: Yes, it is October 16,
3 2008.

4 HEARING OFFICER CELLI: And do we have
5 an author's name?

6 MR. CARROLL: URS.

7 HEARING OFFICER CELLI: Okay.

8 MR. CARROLL: Exhibit 96 is a response
9 to Data Request 24. We had some discussion
10 yesterday about whether the LGIA had been docketed
11 and we were able to clarify that it had been
12 docketed in response to Data Request 24. So we
13 now identified that as Applicant's Exhibit 96.

14 HEARING OFFICER CELLI: Okay.

15 MR. CARROLL: What had been marked as
16 Exhibit 116, the Declaration of D. Ross is now
17 omitted.

18 HEARING OFFICER CELLI: So that is just
19 going to be withdrawn altogether?

20 MR. CARROLL: Correct. And the same
21 with what had been marked as Exhibit 130, the
22 Declaration of J. Zhang is also omitted. And
23 those are the only changes that applicant has.

24 HEARING OFFICER CELLI: Staff, any
25 changes to the Exhibits List?

1 MS. HOLMES: I don't know if this is the
2 appropriate time to discuss this or not but we
3 anticipate filing additional testimony in response
4 to the Applicant's Prehearing Conference
5 Statement. But I think perhaps identifying, we
6 could identify that exhibit now or we could
7 identify it at the time that we talk about how
8 that is going to occur procedurally.

9 HEARING OFFICER CELLI: Okay. Well
10 let's hold off on that right now, I just wanted to
11 look at the list. Actually, right now would be a
12 good time to talk about that. Why don't you just
13 give me the exhibit numbers.

14 MS. HOLMES: It is really at the
15 Committee's discretion. Typically when we have
16 done this in the past we simply file Exhibit 201,
17 which is additional testimony. It is largely in
18 the nature of Errata in this case because there
19 was information that was filed after we had
20 completed the FSA. We would also have
21 supplemental testimony as well. My preference
22 would be to simply list it as one exhibit but to
23 have separate parts of that exhibit addressing the
24 different technical areas, unless the Committee
25 wishes differently.

1 HEARING OFFICER CELLI: Well, does the
2 applicant have a preference one way or the other?

3 MR. CARROLL: I think that proposal
4 makes sense.

5 HEARING OFFICER CELLI: Okay.
6 Committee, do you have any comment or question on
7 that?

8 PRESIDING MEMBER BOYD: No.

9 HEARING OFFICER CELLI: Okay, so that
10 will be Exhibit 201, Additional Testimony.

11 MS. HOLMES: Thank you.

12 HEARING OFFICER CELLI: Anything else,
13 staff?

14 MS. HOLMES: No.

15 HEARING OFFICER CELLI: Are there any
16 changes to the witness list?

17 MS. HOLMES: None from staff.

18 HEARING OFFICER CELLI: Okay.

19 MR. CARROLL: None from applicant.

20 HEARING OFFICER CELLI: Now I am going
21 to turn to Applicant's Prehearing Conference
22 Statement, page five. If that is acceptable to
23 the parties what I would like to do, there are 25
24 issues that are raised in the Prehearing
25 Conference Statement starting on page five that I

1 would like to go through one by one and just
2 determine whether staff agrees, staff disagrees.
3 Really this is for staff whether we have reached
4 resolution on any of these matters. So the first
5 has to do with the Executive Summary.

6 MR. CARROLL: Perhaps it would be
7 helpful, I can provide a very brief shorthand on
8 what some of these longer comments are. This one
9 was merely a request for an acknowledgement that
10 the transmission line had been relocated and
11 shortened. And there were certain places within
12 the FSA where that was clear and certain other
13 places where it wasn't. And so we just wanted to
14 make sure that the record was clear that the
15 transmission line had been modified from what was
16 presented in the AFC.

17 HEARING OFFICER CELLI: And is that
18 acceptable to staff?

19 MS. HOLMES: Yes.

20 HEARING OFFICER CELLI: And Item two?

21 MS. HOLMES: That is also acceptable to
22 staff.

23 HEARING OFFICER CELLI: Project
24 description, Item 3.

25 MS. HOLMES: Staff believes that its

1 analysis correctly reflects the fact that the
2 project is within the jurisdictional boundaries of
3 South Coast but is physically located within the
4 Salton Sea Air Basin. We believe that that
5 distinction has been made accurately in the FSA.

6 HEARING OFFICER CELLI: And does that
7 comport with your view of things?

8 MR. CARROLL: We believe that that
9 distinction has been made accurately.
10 Unfortunately we think that the FSA then goes on
11 to suggest, if not explicitly indicate, that the
12 Salton Sea Air Basin is non-attainment for PM2.5,
13 but it is actually attainment for PM2.5.

14 HEARING OFFICER CELLI: Do you have a
15 cite for them?

16 MR. CARROLL: Yes, it is a table. There
17 is Air Quality Table 3 on page 4.1-7 which
18 indicates PM2.5 non-attainment under the federal
19 and state classifications. The cite that we would
20 provide is actually the one provided by staff, the
21 CARB 2006A we think is the appropriate cite. But
22 we believe if you go to that source and look, what
23 you will find is while it is true that the South
24 Coast Air Basin, which is also part of the South
25 Coast AQMD, is non-attainment for PM2.5, the

1 Salton Sea Air Basin, which is the other part of
2 the South Coast AQMD, is attainment for PM2.5.

3 MS. HOLMES: I think there may actually
4 be a dispute about that. All I am doing at this
5 point is reading from an e-mail, which obviously
6 isn't evidence, from the Air Quality staff, which
7 indicates that the Riverside County portion of the
8 Salton Sea Air Basin is unclassified and that
9 staff believes it is appropriate to use Salton Sea
10 Air Basin for discussing the climate and
11 meteorology of the project site because the
12 setting is dominated by the Salton Sea Air Basin,
13 even though it is jurisdictionally located within
14 the South Coast Air Quality Management District.

15 That is as much elaboration as I can, as
16 I can provide at this point. If you wish us to
17 have an Air Quality -- I don't believe it changes
18 the conclusions on any of these issues. And staff
19 has recommended that Air Quality in its entirety
20 be postponed to a date subsequent to the applicant
21 obtaining sufficient offsets. Nonetheless, if the
22 Committee wishes to address this issue at the
23 hearings in November we would be happy to have an
24 Air Quality witness available.

25 HEARING OFFICER CELLI: I will tell you

1 what. What I would like to do is hold Air Quality
2 in abeyance because I wanted to turn to the issue
3 of Air Quality in terms of how are we going to
4 deal with it, either as an entire subject area or
5 bifurcate it. And we will do that after we finish
6 going through all these topic areas.

7 I did want to raise, the Committee had
8 some concerns with regard to Condition 1. And I
9 raised this to the parties in the telephone
10 conference call we had a couple of weeks back.
11 Having to do with the AQCM which is mentioned in,
12 I think it is AQSC-1. That is the first mention
13 of it. There is no mention in the analysis and
14 there is no discussion of what the qualifications
15 would be.

16 And then I think -- In fact I'll look at
17 my notes so I am not guessing. I can tell you
18 exactly where it occurs. Yes, AQSC-1 mentions the
19 AQCM for the first time. And then you have
20 AQSC-5 which sort of lays out some of the
21 qualifications of an AQCM, Tier II California
22 emissions standards for off-road compression
23 emission engines, the availability of such
24 engines, the availability of filters for non-Tier
25 I or Tier II engines. And the CPM really isn't

1 giving any guidelines as to the who needs to fill
2 that position.

3 MS. HOLMES: That is an issue we are
4 prepared to address in the additional testimony,
5 Exhibit 201.

6 HEARING OFFICER CELLI: Okay, very good.
7 Does applicant have any question on that?

8 MR. CARROLL: No we don't.

9 HEARING OFFICER CELLI: Okay. So we are
10 going to move on to Bio testimony. Item 4,
11 applicant requests modification of condition of
12 certification BIO-11, numbered paragraph four as
13 indicated in Appendix C of the applicant's
14 Prehearing Conference Statement.

15 MR. CARROLL: If you turn to the
16 attachment to the Prehearing Conference Statement
17 which contains the redline of the conditions, we
18 had some proposed changes to BIO-11, numbered
19 paragraph four.

20 HEARING OFFICER CELLI: Yes. Are those
21 changes acceptable to staff or you disagree or
22 what?

23 MS. HOLMES: Those changes are
24 acceptable.

25 HEARING OFFICER CELLI: Very good. And

1 Item 5. Applicant, maybe you want to address this
2 briefly, give some background.

3 MR. CARROLL: Yes. This sort of goes to
4 the fundamental issue that we have continued to
5 engage with staff on, which is the potential for
6 the project pumping to have an impact in the
7 Willow Hill Conservation Area, the area of the
8 mesquite hummocks.

9 I believe that we should probably defer
10 further discussion of this until staff has had an
11 opportunity to provide their supplemental
12 testimony in response to what was provided last
13 week. Based on some conversations we have had,
14 our hope would be that many of these issues will
15 be resolved once we have had an opportunity to
16 review that and engage in some further discussion
17 with the staff.

18 HEARING OFFICER CELLI: Is that
19 acceptable to staff?

20 MS. HOLMES: Yes.

21 HEARING OFFICER CELLI: Okay. And is
22 that the same situation with Item 6, Mr. Carroll?

23 MR. CARROLL: Yes.

24 HEARING OFFICER CELLI: Okay. On
25 hazardous materials, page 4.4-8.

1 MR. CARROLL: Both Items 7 and 8 under
2 hazardous materials were really in the vein of
3 what we viewed as corrections to the FSA.

4 HEARING OFFICER CELLI: Staff?

5 MS. HOLMES: Staff agrees.

6 HEARING OFFICER CELLI: Seven and eight.
7 Now Land Use.

8 MR. CARROLL: Again, this was just a
9 correction. There was a reference to a previously
10 existing condition from the PSA that had been
11 deleted.

12 MS. HOLMES: Staff agrees.

13 HEARING OFFICER CELLI: I wanted to
14 bring to the parties' attention that the Committee
15 had some questions with regard to LAND-1, Land
16 Use-1 condition. There are a couple of things
17 with land. First, in our conference call we
18 talked about the fact that the City of Riverside
19 did come forward and provide information with
20 regard to how they would deal with their
21 conditional use permits with height of the towers.

22 But we still had not yet heard back from
23 Palm Springs, the City of Palm Springs with regard
24 to their conditional use permits. And the matter
25 was not resolved in the FSA. But we may have some

1 concern with regard to local LORS, having not
2 heard back from Palm Springs. There appears to be
3 the need for a permit. And if there is a call for
4 a variance or anything like that, we don't have
5 any evidence in the record that shows the
6 Committee that whatever those conditions would be,
7 that they have been satisfied or not. And this
8 is, just so I can give you a reference, 4.5-22
9 through 4.5-23 of the FSA. There's a table.

10 MR. CARROLL: Applicant was not aware
11 that there were any open questions regarding
12 compliance with the City of Palm Springs' LORS or
13 that we were waiting for feedback from the City of
14 Palm Springs. I apologize if that is something
15 that we should have been paying attention to that
16 we weren't.

17 The City of Palm Springs has appeared at
18 a couple of the public hearings in support of the
19 project. To my knowledge we haven't received any
20 adverse comments from them. And as I said, I was
21 not aware that we were affirmatively seeking
22 feedback from them.

23 MS. HOLMES: The staff position is that
24 although we did not receive input that we had
25 requested we nonetheless completed an analysis and

1 concluded that the project would comply. Which I
2 believe is all that the statute requires.

3 HEARING OFFICER CELLI: The reason this
4 is raised is that in the analysis it mentions that
5 there is a, I believe there is a part of the
6 construction lay-down area that would have
7 required a permit, a conditional use permit. And
8 I don't recall there being any facts or anything
9 in the discussion that says anything about the
10 presence of conditions, shall we say, that were
11 satisfied with the project that would have
12 obviated the need for a conditional use permit.

13 MS. HOLMES: I believe that the staff
14 analysis is contained in the discussion of
15 consistency within that table. And the staff
16 conclusion is that due to the temporary nature of
17 the activities, and the fact that there would be
18 no permanent land use changes, that a conditional
19 use permit would likely issue but for the Energy
20 Commission's jurisdiction. Is what you are
21 looking for, a statement from staff that, and
22 there wouldn't be any conditions with that?

23 HEARING OFFICER CELLI: Right. What I
24 am looking for is a statement that basically says
25 that this is what Palm Springs would be looking

1 for and this is why this is unnecessary, because
2 these facts exist.

3 MS. HOLMES: We can provide some
4 supplemental testimony.

5 HEARING OFFICER CELLI: And then the
6 other question had to do with Land Use-1, the only
7 condition in Land Use having to do with the merger
8 of the parcels and the need for setbacks. And
9 this was raised in the FSA. I then read -- I
10 can't recall if there were some subsequent letters
11 that were docketed having to do with the merger of
12 the parcels and a tie-in agreement that would run
13 with the land.

14 But the concern that I had was that it
15 did not address the need for setbacks and what
16 would the effect of the tie-in agreement be with
17 regard to the setback requirements for each of the
18 three parcels, assuming you want to build across
19 the lines of the parcels. It is not concluded in
20 the FSA that we received. I don't have any
21 testimony that deals with whether that is even
22 permissible. In the FSA they actually talk about
23 receiving a phone call from the County of
24 Riverside and saying to the effect that well, this
25 is a new one on them and they are not quite sure

1 how they were going to deal with it.

2 MR. CARROLL: Let me provide a little
3 bit of background. This is to address the desire
4 on the part of the staff that the parcels be
5 merged into a single parcel prior to the
6 commencement of construction. On this particular
7 site we have a lease with three separate parcels,
8 which are all obviously adjacent, but they all
9 have different ownership structures underlying
10 them.

11 In the application we had proposed that
12 we would simply merge the parcels. As we got into
13 the process of the merger it became apparent that
14 that was going to be extremely complicated given
15 the underlying ownership structure and some quite
16 serious tax implications that would result if they
17 were to be transferred as part of being merged
18 into a single parcel.

19 So at that point we said, the intention
20 here or the objective here is to make sure that
21 all these parcels get held together. Of course
22 they are already held together under the lease
23 that we have with each of the owners of those
24 three parcels so to some extent they are already
25 tied together by virtue of the lease.

1 But we proposed to the staff and the
2 County that rather than doing a merger, which has
3 implications for ownership and therefore
4 implications for tax issues, that we would simply
5 do a lot-tie and record that to make sure that all
6 the parcels were held together. In my view that
7 is a pretty standard approach to this.

8 As you indicated, the County's reaction
9 was that they were not that familiar with that.
10 So it is clear that we have some additional
11 discussion that needs to take place with the
12 County in order to satisfy them that that approach
13 will work. Or if it won't, to come up with some
14 alternative approach that does work for them. I
15 think the condition is intended to essentially
16 say, you need to go work this out with the County
17 and it is a condition of you commencing
18 construction on the project. So that was our
19 intention.

20 HEARING OFFICER CELLI: Staff, did you
21 want to weigh in on that?

22 MS. HOLMES: I would just like to concur
23 with Mr. Carroll's assessment of the staff
24 position. Our position is that if the County is
25 happy, staff is happy.

1 HEARING OFFICER CELLI: But we don't
2 know if the County is happy.

3 MS. HOLMES: No, but they can't start
4 construction until the County is happy.

5 MR. CARROLL: Right.

6 HEARING OFFICER CELLI: Can you give me
7 some sense of when we might get some resolution on
8 the whole question?

9 MR. CARROLL: We are actively engaged
10 now in discussions with them. My sense is that it
11 is probably a matter of weeks as opposed to days
12 before we would have resolution of it. I would
13 hope that it is not months.

14 HEARING OFFICER CELLI: Okay, thank you.
15 Now should we -- As to Soil and Water. I know
16 that that's the, really and Bio are the only two
17 real issues in this case. Should we tackle these
18 issues right now or do we want to put them on hold
19 and go through the rest of the list. We might as
20 well, let's just do it right now. Item 10, staff.

21 MS. HOLMES: To summarize on the Water
22 and the Biology issues. The applicant submitted
23 additional analysis. I can't remember the exhibit
24 number now that was identified. Exhibit 95.
25 Staff had a chance to review that analysis. That

1 analysis contained three different modeling
2 scenarios. Staff agrees that one of those
3 modeling scenarios is appropriate to use for
4 evaluating the period of time required for pre-
5 charge of water that is injected into the
6 groundwater basin.

7 In addition, related to this issue staff
8 has recalculated the period of time that is
9 required for the water to reach the water table
10 once it is recharged. And as a result, although
11 we agree that the 15 months is a reasonable period
12 of time pursuant to the modeling results, we
13 believe it is also appropriate to add an
14 additional month to account for the difference in
15 time required for water to reach the groundwater
16 table.

17 In other words, previously we had said
18 that we believed it was four months, which is
19 included in the 15 months. Now we believe the
20 appropriate time, based on information from Desert
21 Water Agency, is five months. That results in a
22 total pre-charge requirement of 16 months. I hope
23 that was not too confusing.

24 PRESIDING MEMBER BOYD: It just adds to
25 the confusion. No, I understand what you are

1 saying. This was one of the most complicated
2 letters I have read in a long time.

3 MS. HOLMES: Let me try again because I
4 do think it is important. The model shows
5 reviewers how long it takes for the water to move
6 through the ground. And so what we got with the
7 modeling result was, once that water hits the
8 water table, how long does it take to reach the
9 mesquite hummocks. And we are in agreement with
10 the applicant that the appropriate number can be
11 based on their supplemental analysis, 15 months.

12 However, there is -- Another part of
13 that equation is that once you put the water in
14 the ground it takes a period of time for it to
15 reach the water table. And we believe that that
16 number should be, based on information from the
17 Desert Water Agency, should be five months rather
18 than four months. So that gives us a total of 16
19 months rather than 15 months.

20 HEARING OFFICER CELLI: So of the 16
21 months, five months for the water to --

22 MS. HOLMES: Correct.

23 HEARING OFFICER CELLI: -- get down to
24 the water table. Applicant, do you have a
25 response?

1 MR. CARROLL: Again, subject to seeing
2 the staff's supplemental testimony, we think that
3 that makes sense. What we had been proposing was
4 a 15 month period. We thought that that's what
5 the modeling supported. We understand that staff
6 has taken a second look at the period of time that
7 it takes for the water to hit the water table and
8 has bumped that up by a month and that has moved
9 it from 15 to 16.

10 We are getting very close, obviously, to
11 what applicant had proposed. So as I said
12 earlier, I am hoping that once we have had an
13 opportunity to see staff's supplemental testimony
14 that these issues will have been resolved.

15 HEARING OFFICER CELLI: Very good.

16 MS. HOLMES: Having said that, however.
17 Staff still has grave concerns about some of the
18 proposed changes to the conditions of
19 certification that the applicant filed. In other
20 words, although I think we are in agreement about
21 the period of time that is required, or it seems
22 to me that we are very close to agreement about
23 the period of time that is required. The
24 conditions that would implement that conclusion,
25 there will be dispute about.

1 HEARING OFFICER CELLI: Is there any
2 chance that you can resolve this informally?

3 MR. CARROLL: What I would request is
4 that if the applicant's supplemental testimony can
5 not only address the month issue but also the
6 conditions that are of concern to staff, then we
7 would be able to evaluate that and respond. There
8 may be -- Some of the proposed changes to the
9 conditions that we continue to think are
10 important.

11 However, if the substance of the
12 condition is more in line with what we believe it
13 should be then we may have some additional
14 flexibility in terms of the implications of the
15 failure to comply with the conditions. So I would
16 suspect that some of the changes that we
17 requested, the conditions will no longer be
18 necessary now that we have agreed on the
19 substantive analysis. But I can't say without
20 understanding exactly where the staff has problems
21 that all of our proposed changes would drop away.

22 HEARING OFFICER CELLI: Is that
23 reasonable, staff? Is it a reasonable request
24 that you address the conditions in your subsequent
25 testimony?

1 MS. HOLMES: Yes.

2 HEARING OFFICER CELLI: Or supplemental
3 testimony, rather.

4 MS. HOLMES: Yes, we can do that.

5 HEARING OFFICER CELLI: Thank you. So
6 that would probably be the case for Items 11, 12
7 and 13, Mr. Carroll, you think?

8 MR. CARROLL: With respect to 13, I
9 think we may still have a difference of opinion
10 with staff. This does not go to any of the final
11 conclusions with respect to the analysis but it is
12 one of the interim steps of getting to the final
13 conclusion.

14 And so I think, unless -- I have not
15 heard anything about the staff altering its
16 position on the environmentally desirable or
17 economically sound nature of the alternatives.
18 And so I suspect that we are going to continue to
19 submit testimony on that, which will be contrary
20 to what is presented in the staff assessment.

21 Although as I said, again, we are in
22 complete agreement with the staff that what the
23 applicant has proposed is the superior
24 alternative. We just think that there is some
25 additional information, which when taken into

1 consideration, makes it clear that it is even more
2 superior than the staff assessment indicates it to
3 be.

4 And so I believe that we will submit --
5 you will see in our exhibits declarations on this
6 issue. We had planned to present live testimony
7 on this issue, primary to provide an opportunity
8 to the Commissioners to ask any questions if they
9 had them. I think, again, we probably want to
10 take a look at the supplemental staff assessment
11 and assess whether or not it is necessary to
12 present any live witnesses.

13 HEARING OFFICER CELLI: Did you have
14 anything to add, staff?

15 MS. HOLMES: It is difficult for us to
16 know not having seen what they filed, whether we
17 would be responding to it in supplemental
18 testimony. So there may or may not be additional
19 testimony from staff on this point. It will
20 depend upon what the applicant files.

21 MR. CARROLL: And not that this would
22 allow the staff to make a decision but what I can
23 say that it is largely a restructuring of
24 previously provided information. There is no new
25 substantive information but it is repackaged in a

1 way that we think is a little more digestible,
2 pulled together in one place.

3 HEARING OFFICER CELLI: This Traffic and
4 Transportation item. Mr. Carroll, did you want to
5 kind of flesh that one out for us, please.

6 MR. CARROLL: Yes. This is somewhat
7 similar to the Land Use issue in the sense that it
8 is an issue that the County is involved in. And
9 it has to do with the access road to the site.
10 And we are proposing that the condition be
11 modified to provide a little bit more flexibility
12 to the applicant in order to make sure that we
13 accommodate not only the staff's desires but the
14 County staff's desires as well.

15 HEARING OFFICER CELLI: Does staff have
16 a position?

17 MS. HOLMES: Staff supports what the
18 applicant has suggested. We may have language
19 that is slightly different than what they have
20 proposed. Nonetheless, I believe that there will
21 not be any issue that needs to be litigated with
22 respect to traffic and transportation.

23 HEARING OFFICER CELLI: So we are going
24 to resolve that in your supplemental testimony,
25 okay. Worker Safety and Fire Protection. Does

1 staff agree, disagree?

2 MS. HOLMES: Staff agrees.

3 HEARING OFFICER CELLI: And TSE, Item
4 16. Have you had a chance to look at those
5 changes?

6 MR. CARROLL: Yes. With respect to
7 Transmission System Engineering and Transmission.
8 Well, I guess all these comments relate to TSE.
9 We had a number of comments that I think, and I
10 will be the first to confess I am not an expert in
11 the area of transmission. But I guess the way
12 that I would characterize these is that they are
13 changes brought about by alterations in the way
14 the Cal-ISO operates relative to when the
15 application was submitted, when the staff
16 assessments were prepared and as we sit here
17 today. So I think these are largely
18 clarifications and updates of the staff assessment
19 to reflect the process and the terminology that is
20 currently implemented by Cal-ISO.

21 HEARING OFFICER CELLI: Does staff agree
22 with each of these changes under Transmission
23 Systems Engineering?

24 MS. HOLMES: We are, we are in agreement
25 that there needs to be additional clarification.

1 Again, we will be responding in the supplemental
2 testimony. I don't think there will be a major
3 dispute about the language of the changes,
4 however, in the text.

5 HEARING OFFICER CELLI: Okay. So that's
6 Items 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25.
7 Is that right? In other words, you will be
8 addressing all of those matters in supplemental
9 testimony?

10 MS. HOLMES: Yes.

11 HEARING OFFICER CELLI: And you think
12 that they will be resolved therein?

13 MS. HOLMES: Yes.

14 MR. CARROLL: One additional issue with
15 respect to transmission. In applicant's comments
16 on the Preliminary Staff Assessment we had
17 proposed a series of changes to the conditions of
18 certification to reflect that Southern California
19 Edison will be 100 percent responsible for the
20 very short transmission line associated with this
21 project, including designing it, constructing it,
22 operating it, maintaining it.

23 That wasn't exactly the case at the time
24 that the application was filed. As a result the
25 conditions of certification and transmission

1 imposed certain obligations and burdens on the
2 applicant that we think should be more
3 appropriately placed on SCE.

4 We expect based on what SCE and PG&E
5 have insisted upon in other cases that they will
6 want those conditions modified so that it is clear
7 what their obligations are. There is some recent
8 precedent in the Russell City case and in the
9 Inland Empire Energy case where the conditions
10 were modified similar to the way in which we
11 requested the conditions be modified in the PSA.

12 We didn't repeat all of those requests
13 here because we were trying to narrow the scope of
14 the issues. But we would like staff to reconsider
15 whether or not those changes are appropriate at
16 this time or whether those are changes that should
17 be taken up at a later time. We think that,
18 again, SCE is going to insist that they be taken
19 up at some point and we would like to do that pre-
20 certification as opposed to post-certification.

21 So what I would offer is to resubmit to
22 staff the proposed changes to the TSE conditions
23 that we had provided on the PSA and ask them to
24 reconsider those proposed modifications.

25 HEARING OFFICER CELLI: So any response

1 please, staff?

2 MS. HOLMES: Staff is prepared to do
3 that.

4 HEARING OFFICER CELLI: So what we are
5 going to get then is supplemental testimony from
6 staff that addresses these issues and resolves --

7 MS. HOLMES: We plan to address each of
8 the issues that the applicant has raised, both in
9 terms of comments on the text of the FSA as well
10 as proposed changes to the conditions of
11 certification. In addition my notes indicate that
12 the Committee would like additional testimony on
13 Air Quality SC-1 and SC-5 as well as additional
14 testimony on the issue of the types of conditions
15 that Palm Springs would impose were it issuing a
16 conditional use permit.

17 HEARING OFFICER CELLI: Correct. And
18 there is more. Actually there's two more. This
19 isn't new news, we talked about this on the phone
20 in our telephone conversation. There was the
21 Transmission Line Safety Nnd nuisance mentions in
22 there, TLSN-3. You need a qualified individual to
23 measure the EMFs, without giving what the
24 qualifications are, whatever those may be.

25 And in Visual at page 4.12-12, paragraph

1 two. It leaves you with a question whether SR-62
2 is a scenic corridor or not. And then it states
3 in the testimony that if it is a scenic corridor
4 then there is a significant impact, but if it is
5 not there is not. But it doesn't resolve the
6 question.

7 MS. HOLMES: Okay.

8 HEARING OFFICER CELLI: And we would
9 like to see that resolved, please, in the staff
10 testimony. And other than that I think we have
11 covered all of applicant's concerns, have we not?

12 MR. CARROLL: Yes.

13 HEARING OFFICER CELLI: Okay, very good.
14 Thank you for walking through that.

15 Any questions from the Committee?

16 PRESIDING MEMBER BOYD: No questions.

17 HEARING OFFICER CELLI: Now let's talk
18 about the timing. Staff mentions that each topic
19 will require 15 minutes of direct testimony, which
20 is going to be around four hours-plus.

21 MS. HOLMES: I only meant the two that
22 were contested.

23 HEARING OFFICER CELLI: Thank you.
24 Thirty minutes, okay. Well that changes my whole
25 view of this case.

1 Applicant suggested for Bio it is going
2 to take one hour of direct and one hour of cross
3 examination of David Kisner. Since we have no
4 intervenor you are expecting that the staff is
5 going to want an hour to cross. Is that how you
6 calculated this?

7 MR. CARROLL: No, what I had meant here
8 was that it would take an hour for our own witness
9 under direct and that we were reserving an hour to
10 cross examine the staff's witness.

11 HEARING OFFICER CELLI: I got you, okay.
12 Well then that makes up for the time I gained
13 before.

14 MR. CARROLL: But let me say again, I
15 think that both with respect to Bio and Soil and
16 Water, once we have had an opportunity to review
17 the staff's supplemental testimony the need for
18 any live testimony, direct or cross, may be
19 eliminated.

20 Coming into this we really had two, I
21 think, fundamental disagreements with staff. One
22 was over the appropriate pre-charge period, and
23 the other, as I said, which is sort of a secondary
24 conclusion because we agree with them on the
25 ultimate conclusion, is whether the alternatives

1 to the water supply plan were environmentally
2 superior or economically superior to what the
3 applicant had proposed.

4 And so those were the two areas that we
5 were planning to provide live testimony on. I
6 think based on what we have heard today, that
7 first area appears to have been very close to
8 being resolved if not completely resolved, which
9 would eliminate the need for live testimony on
10 that.

11 In light of that, I think we would think
12 long and hard whether we felt compelled to provide
13 live testimony on the alternatives. Because as I
14 said, the scenario where we are in complete
15 disagreement with the staff, we just think the
16 record could be bolstered. We have done that in
17 our written exhibits and perhaps that is
18 sufficient.

19 HEARING OFFICER CELLI: Okay. So,
20 staff, do you agree with that assessment?

21 MS. HOLMES: If he doesn't want to
22 present his witnesses that's fine with me.

23 HEARING OFFICER CELLI: Well, what I was
24 looking at was something between an 8 and a 12
25 hour day based on the estimates that I received.

1 MS. HOLMES: I think that if -- I have
2 to agree with Mr. Carroll. If there are any
3 remaining disputes it will be over the conditions
4 on Soil and Water Resources. And it is very
5 difficult for me to imagine that any testimony on
6 that topic would take more than a couple of hours
7 at the very most.

8 MR. CARROLL: I think that's correct.

9 HEARING OFFICER CELLI: Very good. Next
10 as to the proposed schedule. Staff proposes that
11 opening briefs be filed five days after the
12 transcripts become available and that reply briefs
13 be filed five business days after opening briefs
14 are filed. And that briefs on air quality should
15 be filed after hearings on that topic.

16 Then the applicant proposes one day of
17 evidentiary hearing but keep the record open until
18 the AQ resolves, which would necessitate in either
19 case, a second hearing. No, applicant recommended
20 scheduling one round of briefs two weeks after the
21 transcript is available, but I was reading that as
22 being two weeks after the second hearing, which I
23 thought might not be the most efficient way to
24 handle this case.

25 We are going to have to -- Let's get to

1 the air quality question right now. The question
2 is whether we have to bifurcate the issue of air
3 quality because the Final Determination of
4 Compliance submitted by South Coast Air Quality
5 Management District does not identify the ERCs to
6 be applied to the project.

7 Staff recommends that the air quality
8 topic in its entirety be addressed at a subsequent
9 hearing once sufficient emission reduction credits
10 are identified. Applicant recommends proceeding
11 on air quality and deal with the ERC question
12 separately in the first hearing.

13 I would like to hear each party's
14 position on these options. I would like to know
15 what the status of the ERCs are and any expected
16 date, if you have one, that they could be
17 identified. Whether the separation of the air
18 quality issue affects any other topic areas and
19 what your rationale would be for proceeding one
20 way or the other. So, applicant, please.

21 MR. CARROLL: Not necessarily in the
22 order that you asked but I don't believe that
23 resolution of the air quality issues affects any
24 of the other sections. So I think that we can
25 easily bifurcate all or part of the air quality

1 section and still proceed with the rest of the
2 hearing.

3 With respect to whether we proceed with
4 air quality now save the emission offset piece,
5 which is applicant's proposal. Our position with
6 respect to that is that but for the emission
7 offset piece the air quality analysis is
8 absolutely complete.

9 We have one question about what the
10 attainment designation is for the region where the
11 project is, but frankly I think that is something
12 that Ms. Holmes and I can very quickly resolve
13 between the two of us. It is a question of fact.
14 It is either designated attainment or non-
15 attainment. I think we can get that resolved.
16 And but for that one clarification the staff
17 assessment is complete.

18 We don't intend to examine any
19 witnesses, cross-examine any witnesses or present
20 any witnesses of our own. So it seems that in the
21 interest of staff resources and Committee
22 resources we are ready to go on Air Quality now
23 save for the offset piece and therefore we should
24 go. If we set the entire Air Quality section
25 aside some new development could arise between now

1 and the time we revisit the offset piece.

2 Staff's recollection, applicant's
3 recollection of the analysis becomes stale. We
4 need to ramp up and get ready for hearings again.
5 So I think if the desire is to deal with this once
6 and be done with it now is the time to do it. The
7 staff and the applicant are prepared to move
8 forward. The FSA was just published. It is fresh
9 in the staff's mind. We should proceed and get it
10 done.

11 The offset piece is a very discrete
12 piece of the air quality analysis. It is not as
13 though it is an issue that sort of pervades the
14 entire analysis and would require us to go back
15 and revisit anything. It is a very discrete piece
16 that can very easily be evaluated and slotted into
17 the record at a later time.

18 So we think in the interest of
19 conserving everybody's time and resources and
20 closing out as many issues as we can on this
21 project that we should proceed with Air Quality.
22 And when we have the offset piece we will file a
23 supplement and we will have a complete record.

24 HEARING OFFICER CELLI: Staff?

25 MS. HOLMES: Staff agrees that the

1 resolution of the air quality issue is not related
2 to any other topics in the FSA. Nonetheless,
3 staff believes it is a more appropriate use of
4 staff resources to deal with Air Quality at a
5 single hearing. The emission offset package is an
6 integral part of the Air Quality section of the
7 FSA. Staff does not feel comfortable going
8 forward talking about different parts of the FSA
9 at different hearings.

10 In addition, it would require staff to
11 prepare -- the Air Quality staff to prepare for
12 two separate hearings. We think it is a much more
13 efficient use of staff resources to prepare for
14 one hearing and deal with all of the Air Quality
15 issues at one time.

16 MR. CARROLL: If I could just respond to
17 that.

18 HEARING OFFICER CELLI: Please.

19 MR. CARROLL: There is no preparation
20 necessary. The staff has submitted its
21 assessment, we have no desire to cross-examine
22 them on it, they are done.

23 HEARING OFFICER CELLI: I wonder if
24 there is an issue having to do with, you know, the
25 ability of the public to comment. The whole idea

1 of a noticed hearing and a complete hearing.

2 MR. CARROLL: Well we would, I presume,
3 have a Notice of Hearing at the point that the
4 emission offset package became available. And
5 everyone would certainly have an opportunity to
6 comment on the emission offset package at that
7 time.

8 HEARING OFFICER CELLI: So one way or
9 the other we are going to have to have two
10 hearings on Air Quality, either all of it or some
11 of it.

12 MR. CARROLL: Well, yes. Although, you
13 know, the first hearing on Air Quality will be
14 very short and sweet since they have submitted a
15 declaration and we have no desire to cross-examine
16 their witnesses on it. So the first hearing on
17 Air Quality should take all of about 15 seconds.
18 And then we would have a subsequent hearing on the
19 emission offset issue.

20 HEARING OFFICER CELLI: Okay. Staff
21 response?

22 MS. HOLMES: I think that your point
23 about public participation is a good one. And
24 although the witnesses may not need to say much we
25 do like to have our witnesses prepared to respond

1 to public comment or any questions from the
2 Committee about any part of the Air Quality
3 analysis. And again, as I stated before, we think
4 it is the most efficient use of staff resources to
5 have the Air Quality staff present their testimony
6 as a single piece at a single hearing.

7 HEARING OFFICER CELLI: Any questions
8 from the Committee?

9 PRESIDING MEMBER BOYD: I have a
10 question of the applicant. Do you have any
11 estimate of time as to when the emission offset
12 issue for this case might be resolved?

13 MR. CARROLL: We have a number of
14 options that we are pursuing for replacing the
15 emission offsets that we had intended to obtain
16 from the priority reserve. They range from
17 legislative fixes to completely different credit
18 generation proposals. I would say that the range
19 of time is anywhere from one month to seven months
20 depending on which of those options comes to
21 fruition.

22 HEARING OFFICER CELLI: Okay. Any
23 further questions? Very good. That pretty much
24 takes care of all of the issues that the Committee
25 had with regard to how we are going to proceed. I

1 just wanted to know if there was anything from
2 either of the parties that you wanted to add.
3 Please, Ms. Holmes.

4 MS. HOLMES: I have several issues.
5 First of all with respect to Soil and Water
6 Resources. There are a lot of references in the
7 Final Staff Assessment. My recommendation to the
8 Committee is that if a Soil and Water Resources
9 issue is a litigated issue that it would be
10 appropriate to provide a index of the subset of
11 documents that are important to resolving the
12 issue of how much time is required for pre-charge,
13 elements having to do with the applicant's water
14 supply plan, and have those separately marked as
15 exhibits.

16 That is something we will be prepared to
17 do. We could present that index in our
18 supplemental testimony. It may or may not be
19 necessary but I wanted to raise that point to the
20 Committee now. That if Water is an adjudicated
21 issue I believe it would be appropriate to
22 separately identify the critical documents that
23 underlay the staff testimony.

24 HEARING OFFICER CELLI: But the staff
25 would be providing that index to the Committee and

1 providing --

2 MS. HOLMES: I am suggesting that we
3 provide an index with our supplemental testimony.
4 And we would be prepared to introduce those as
5 exhibits at the hearing if Water remains a
6 contested topic.

7 HEARING OFFICER CELLI: Staff? I'm
8 sorry, applicant?

9 MR. CARROLL: Applicant has no objection
10 to that approach.

11 MS. HOLMES: Another issue has to do
12 with when the parties will be notified as to
13 whether or not they need to present live
14 witnesses. We are planning to submit supplemental
15 testimony a week from today. Obviously there will
16 need to be a period of time for the Committee to
17 respond to that and for the Applicant to respond
18 to that. I would like to get some sense of the
19 time frame that our witnesses will have for
20 notification.

21 HEARING OFFICER CELLI: Well, let's work
22 backwards from November 3. Today is the 21st.
23 When were you planning on submitting the
24 supplemental testimony?

25 MS. HOLMES: I think we can, I think we

1 can file next Monday.

2 HEARING OFFICER CELLI: The 27th?

3 MS. HOLMES: Yes.

4 HEARING OFFICER CELLI: So if the 27th
5 is staff's supplemental testimony, how much time
6 does applicant need to respond, being mindful of
7 the fact that the following Tuesday is our
8 Evidentiary Hearing date.

9 MR. CARROLL: Applicant would respond at
10 the latest by the 29th, the close of business on
11 the 29th. Two days.

12 HEARING OFFICER CELLI: Okay.

13 ADVISOR TUTT: Hearing Officer Celli, I
14 believe it is the following Monday.

15 HEARING OFFICER CELLI: You are right,
16 I'm sorry, the 3rd is a Monday.

17 MR. CARROLL: That's right.

18 HEARING OFFICER CELLI: So the 29th
19 would work for responses?

20 MR. CARROLL: Yes.

21 HEARING OFFICER CELLI: And we have
22 applicant testimony here today? Applicant's
23 exhibits?

24 MR. CARROLL: Yes, I'm sorry. The
25 applicant's exhibits are in boxes along the wall

1 over here.

2 HEARING OFFICER CELLI: Excellent.

3 Okay. So what will happen is we will issue a
4 Hearing Order with these dates. Ms. Holmes.

5 MS. HOLMES: I wasn't finished with my
6 list yet.

7 (Laughter)

8 HEARING OFFICER CELLI: Please go on.

9 MS. HOLMES: I would like to modify the
10 staff request with respect to briefing and
11 actually add a week to -- either add a week to the
12 applicant's proposed briefing schedule or pick a
13 time certain in the beginning of December.

14 HEARING OFFICER CELLI: I was thinking
15 ten days, actually. I'm sorry, you know, we
16 skipped that because we wanted to talk about Air
17 Quality. Staff wants two weeks.

18 MS. HOLMES: For a purely selfish reason
19 I will not be writing during the weeks of the 10th
20 and the 17th.

21 HEARING OFFICER CELLI: There is no rush
22 because we have an outstanding Air Quality issue.
23 But what these briefs do is it enables the
24 Committee to start working on the PMPD. So with
25 the benefit of the briefs -- Is ten days

1 acceptable?

2 MS. HOLMES: Ten days after the
3 transcript?

4 HEARING OFFICER CELLI: Let me ask the
5 applicant. Is two weeks acceptable?

6 MR. CARROLL: Two weeks from?

7 HEARING OFFICER CELLI: From the
8 availability of the transcript.

9 MS. HOLMES: That's what they proposed.

10 MR. CARROLL: That's fine but I think we
11 could also -- So we are talking about five days,
12 which is what the staff has proposed, versus two
13 weeks.

14 HEARING OFFICER CELLI: I'm sorry, staff
15 is trying to accelerate?

16 MS. HOLMES: No. Staff is trying to
17 slow down.

18 HEARING OFFICER CELLI: Okay. Because
19 you are --

20 MS. HOLMES: I am suggesting -- I don't
21 know how long it takes to get the transcript, is
22 part of my concern. I am not back in the office
23 until the 24th. And what I don't want is a due
24 date of the 26th, is what I am getting to.

25 So one suggestion is to say three weeks

1 after the transcripts are available because that
2 would clearly include that period of time. Or
3 simply to pick a time certain, say December 4 or
4 December 5 or something along those lines.

5 HEARING OFFICER CELLI: Applicant, do
6 you have a position on that?

7 MR. CARROLL: I would like it to be
8 somewhat accelerated but I'm sorry, I didn't quite
9 catch the dates that Ms. Holmes was out.

10 MS. HOLMES: I am either suggesting
11 picking a date certain or expanding from your
12 suggested two weeks after the transcript is
13 available, until three weeks. Although, if I
14 don't, if we could get a better sense of when the
15 transcript would be available, for what we are
16 anticipating will be a relatively short hearing,
17 that would be very helpful. Hearing Officer
18 Celli, I don't know if that is something you can
19 provide insight about.

20 HEARING OFFICER CELLI: What date did
21 you have in mind if you wanted a date certain?

22 MS. HOLMES: I was suggesting the 4th of
23 December.

24 HEARING OFFICER CELLI: That's four
25 weeks out.

1 MS. HOLMES: From the hearing.

2 HEARING OFFICER CELLI: Right.

3 MS. HOLMES: But not from when the
4 transcript is --

5 HEARING OFFICER CELLI: True.

6 MR. CARROLL: Let me suggest that we
7 work with that as a tentative date and then
8 revisit this at the Evidentiary Hearing. We may
9 not have much to talk about in briefs.

10 MS. HOLMES: We may not, that's correct.
11 I am quite happy with the 4th as a default with
12 the understanding that it will be revisited at the
13 hearing.

14 HEARING OFFICER CELLI: December 4. and
15 that is acceptable, Mr. Carroll?

16 MR. CARROLL: Yes.

17 HEARING OFFICER CELLI: Okay.

18 MS. HOLMES: And then the last item that
19 I had to suggest here was, although this was not
20 noticed as a workshop it was publicly noticed as
21 an opportunity for people to participate and
22 discuss the issues that are still unresolved in
23 this case. I am wondering whether there is any
24 interest in having a discussion with or without
25 the Committee present on some of the more

1 technical issues having to do with the conditions
2 of certification in hopes that we could resolve
3 them prior to our filing of testimony next Monday.

4 HEARING OFFICER CELLI: Well we have not
5 taken public comment yet and people have called
6 in. We have several people on the phone.

7 MS. READ: Monisha has come back.

8 HEARING OFFICER CELLI: Okay.

9 MS. READ: She is listening but wants to
10 speak at public comment.

11 HEARING OFFICER CELLI: I don't see --
12 This is a noticed hearing. I don't see any
13 problem with that. I think that you would be able
14 to proceed after we take public comment. Then the
15 Committee would leave and you could proceed on the
16 record.

17 MS. HOLMES: You are welcome to leave or
18 not if you like.

19 HEARING OFFICER CELLI: Well thank you
20 very much.

21 Is there anything further regarding the
22 schedule from the staff or applicant?

23 MR. CARROLL: No.

24 HEARING OFFICER CELLI: Okay, great.
25 Then it is time to take public comment. And

1 Mr. Bartsch, I don't know if we have any -- Is
2 there anyone here in the audience from the public
3 who wanted to make any public comment?

4 Seeing none, we have several people on
5 the telephone. Monisha Gangopadhyay. My
6 apologies.

7 MS. GANGOPADHYAY: Monisha Gangopadhyay.

8 HEARING OFFICER CELLI: Thank you.

9 MS. GANGOPADHYAY: I have no comments a
10 this time.

11 HEARING OFFICER CELLI: Thank you very
12 much. Thank you for listening.

13 Michelle Scott from Worley Parson. Is
14 she still there, Michelle Scott?

15 What we have is I have Michelle Scott
16 from Worley Parson is listening. I have Ron Yasny
17 from the California Energy Commission listening
18 and I have Gregg Wheatland who is listening. Did
19 any of these people care to make a comment at this
20 time?

21 MS. READ: No, they are listen only.

22 HEARING OFFICER CELLI: Okay. Then with
23 that I will hand it back to Commissioner Boyd who
24 will adjourn the hearing.

25 PRESIDING MEMBER BOYD: Well first I

1 would encourage everyone to take Ms. Holmes'
2 invitation to heart. Don't mind if I don't stay
3 to enjoy the festivities. But thank you all and I
4 look forward to your resolution of some of these
5 issues.

6 I would say there is just no question
7 this Air Quality issue and the priority reserve in
8 the South Coast is an issue that is troubling the
9 Commission quite a bit. It affects multiple cases
10 and we are running into a brick wall, so to speak,
11 on a whole host of cases.

12 So I encourage you to find alternate
13 solutions to that problem and I wish you well on
14 that. I know it is a very significant issue for
15 all of us.

16 With that I thank you all and look
17 forward to you reporting back to us that you have
18 resolved almost everything. Thank you.

19 HEARING OFFICER CELLI: Thank you.

20 (Whereupon at 10:10 a.m., the
21 Prehearing Conference was
22 adjourned.)
23
24
25

CERTIFICATE OF REPORTER

I, RAMONA COTA, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Prehearing Conference; that it
was thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
conference, nor in any way interested in outcome
of said conference.

IN WITNESS WHEREOF, I have hereunto set
my hand this 24th day of October, 2008.

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